

APR 03 2007

**BEFORE THE BOARD OF HEALING ARTS  
OF THE STATE OF KANSAS**

**KS State Board of Healing Arts**

<b>In the Matter of</b>	)	
	)	
<b>Dennis L. Whitson, P.T.</b>	)	<b>Docket No.: 07-HA-74</b>
<b>Kansas License No. 11-02234</b>	)	<b>OAH No.:</b>

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**EMERGENCY EX PARTE ORDER OF SUSPENSION**

NOW on this 3<sup>d</sup> day of April 2007, this matter comes before the Presiding Officer upon a Motion for *Ex Parte* Emergency Order of Suspension. Kathleen Selzler Lippert, Associate Counsel filed a Motion for *Ex Parte* Emergency Order of Suspension. There are no other appearances.

The Presiding Officer has reviewed the agency file in Kansas Board of Healing Arts (KBHA) Docket No. 07-HA-74. The Presiding Officer finds, concludes and orders as follows:

1. This is a motion for an order pursuant to 77-536. Under that statute, the Presiding Officer may issue an order without notice and hearing, and may temporarily limit or suspend a license if the Presiding Officer finds an imminent danger to the public health, safety, or welfare.
2. The Presiding Officer has received and reviewed a Motion for an *Ex Parte* Order suspending Licensee license filed with KBHA on March 28, 2007. The motion requests an emergency suspension of Licensee's license.
3. The motion for an emergency order in the above captioned case alleges that Licensee was charged in Johnson County, Kansas, District Court with

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*Ex Parte* Emergency Order of Suspension  
Dennis L. Whitson, P.T.  
KBHA Docket No. 07-HA-74

Aggravated Indecent Liberties with a Child, a Level 5 Person Felony in case number 06-CR\_1317.

4. Additionally, the motion alleges that the charges stem from Licensee's arrest after soliciting sexual acts from a child.
5. Further, the motion alleges that Licensee entered a plea and was found guilty of Aggravated Indecent Liberties, a Level 5 Person Felony, in Johnson County District Court Case No. 06-CR-1317.
6. The motion for an emergency order in the above captioned case includes Exhibit 1; which is a copy of a file stamped Complaint in Johnson County District Court Case No. 06-HA-1317. The Complaint charges Dennis Linn Whitson with Aggravated Indecent Liberties, a severity Level 5 Person Felony.
7. Exhibit 1, the Complaint in 06-CR-1317, states that Licensee engaged in internet chat with a detective who was posing as a 13-year-old girl. The Complaint further indicates that Licensee drove to a location to meet the 13-year-old girl for the purpose of having sexual intercourse but Licensee failed in the perpetration thereof or was prevented or intercepted in the execution thereof.
8. The motion for an emergency order in the above captioned case includes Exhibit 2, which is a copy court notes for Johnson County District Court Case No. 06-CR-1317.

9. Exhibit 2 states that Licensee waived his preliminary hearing, was arraigned and entered a plea in Johnson County District Court Case No. 06-CR-1317 on March 28, 2007. Additionally, the criminal court on March 28, 2007, found Licensee guilty, ordered a presentence investigation and set sentencing for a later date.

### **FINDINGS OF FACT**

10. Licensee presently has an active and unrestricted license to practice physical therapy in the state of Kansas.
11. The Presiding Officer finds that Licensee has been charged with and was found guilty of the felony crime of Aggravated Indecent Liberties.
12. The Presiding Officer finds that Licensee's actions demonstrate that he has attempted to engage in sexual acts with a child.
13. The Presiding Officer finds that the crime of Aggravated Indecent Liberties is an egregious crime which has serious potential harm to the public.

### **CONCLUSIONS OF LAW**

14. The Presiding Officer finds that pursuant to K.S.A. 77-536, the Board may use emergency proceeding to protect the public from an immediate danger to the public health, safety or welfare.
15. The Presiding Officer finds that pursuant to K.S.A. 65-2912, the Board has grounds to revoke, suspend, censure, fine or otherwise limit Licensee's license for violation of the Kansas Physical Therapy Act .

16. The Presiding Officer finds that Licensee has violated K.S.A. 65-2912(a)(5), in that Licensee's acts as set forth in the criminal complaint constitute unprofessional conduct.
17. The Presiding Officer finds that Licensee has violated K.S.A. 65-2912(a)(2), in that Licensee has been found guilty of a felony and he has not been sufficiently rehabilitated to warrant the public trust.
18. The Presiding Officer finds that Licensee's continuation in practice would constitute an immediate danger to the public health, safety or welfare.
19. The Presiding Officer further concludes that an immediate suspension of Licensee's license to practice physical therapy is warranted until a formal hearing can be conducted.
20. The Presiding Officer finds this is an Emergency Order under K.S.A. 77-536. It is effective upon issuance.

**IT IS THEREFORE, ORDERED** that the physical therapy license of Dennis L. Whitson is hereby immediately suspended and this Order is effective upon issuance.

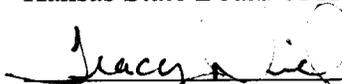
**IT IS FURTHER ORDERED** that board counsel shall serve this order in the manner provided by law, and shall complete and file a proof of service.

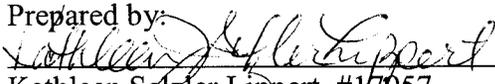
**PLEASE TAKE NOTICE** that a hearing on this matter will be scheduled as soon as practicable at the Board office, 235 S.W. Topeka Blvd., Topeka, Kansas. The issue to be determined is whether the emergency order of suspension should remain in place, be modified or terminated. A Notice of Hearing will be issued.

**PLEASE TAKE NOTICE** that this is an emergency order. An emergency order is effective when rendered. A party to an agency proceeding may seek judicial review of an emergency order by filing a petition in the District Court as authorized by K.S.A. 77-601, et seq. A petition for judicial review is not timely unless filed within 30 days following service of the order. A copy of any petition for judicial review must be served upon Board's Executive Director at 235 S.W. Topeka Blvd., Topeka, Kansas 66603.

Dated this 30 day of April 2007.

Kansas State Board of Healing Arts

  
Tracy Diel, Presiding Officer  
Office of Administrative Hearings

Prepared by:  
  
Kathleen Selzler Lippert, #17957  
Associate Counsel  
Kansas Board of Healing Arts  
235 South Topeka Blvd.  
Topeka, Kansas 66603  
(785) 296-0961

**CERTIFICATION OF SERVICE**

I, the undersigned, hereby certify that I served a true and correct copy of the PETITION by United States mail, postage prepaid, on this 30<sup>th</sup> day of April, 2007, to the following:

Dennis L. Whitson, P.T.  
Licensee  
421 S. Maple  
Box 309  
Garnett, Kansas 66032

805 S. Edgemere Dr.  
Clathe, Kansas 66061

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John P. O'Connor  
Attorney for Licensee  
Wagstaff & Cartmell, LLP  
4740 Grand Avenue, Suite 300  
Kansas City, Missouri 64112  
And the original was hand-filed with:

Lawrence T. Buening, Jr.  
Executive Director  
Kansas Board of Healing Arts  
235 S. Topeka Boulevard  
Topeka, Kansas 66603-3068

A handwritten signature in cursive script, reading "Kathleen J. Lippert". The signature is written in black ink and is positioned to the right of the typed text.